

Court of Appeals, State of Michigan

ORDER

City of Riverview v Department of Environmental Quality

Docket No. 296683

LC No. 09-000712-CZ

Alton T. Davis
Presiding Judge

Peter D. O'Connell

William C. Whitbeck
Judges

The Court orders pursuant to MCR 7.205(D)(2), that in lieu of granting the application for leave to appeal, the circuit court's January 29, 2010 order is REVERSED, and the matter is REMANDED to allow plaintiff to file an amended complaint stating specific facts that would support its maintenance of support claim under the first sentence of 1963 Const, art 9, § 29. To establish a violation under this provision, plaintiff must show (1) that there is a continuing state mandate, (2) that the state actually funded the mandated activity at a certain proportion of necessary costs in the base year of 1978-1979, and (3) that the state funding of necessary costs has dipped below that proportion in a succeeding year. *Adair v State of Michigan*, 470 Mich 105, 111; 680 NW2d 386 (2004). The complaint and more definite statement filed by plaintiff do not state with particularity the factual basis for a maintenance of support claim. MCR 2.112(M). The circuit court shall give plaintiff another opportunity to amend its complaint to state the factual basis for a maintenance of support claim. If plaintiff cannot do so, defendant would be entitled to summary disposition of that portion of the complaint under MCR 2.116(C)(8).

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL - 9 2010

Date

Sandra Schultz Mengel
Chief Clerk